

Y-51068 B4-113  
P.O. BOX 3030 H.D.S.P.  
Susanville, CA 96127

Court Clerk  
Northern Dist CRT H.S.E.  
Northern Dist of Calif

Daniel Portugal }  
V. }  
T. Felter-warden }  
ET-AL-CUSTODY STAFF }

CV 08 3311  
Case No. CRB (PR)

FILED

JUL - 9 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
THE NORTHERN DISTRICT OF CALIFORNIA

E-filing

Motion seeking issuance of  
Temporary restraining order &  
Preliminary Injunction order  
against any Reprisal by staff  
of any manner

Daniel Portugal - VS 1068 Do Solemnly swear that to the best of  
my ability, knowledge this entire entitled Document/Motion to be  
true and correct according to the color & letter of law, and  
under the Penalty of Perjury. I'm seeking of your honorable  
court a Preliminary Injunction Be issued/served upon  
this institution's warden T. Felter and it's custody  
staff (I.E) Receiving & Release, AD-SEG & B YRD staff  
those involved with my Day to Day handling, escort, Etc  
all I can do to name any & all of them who've threatened my  
Person with Physical/Bodily harm is say "John Doe &  
Jane Doe" there bosses, which their sign in log & Daily  
log will reflect as they won't tell you their name(s) or badge  
number(s) and most of the time they keep it covered up  
with a suspender shoulder strap or something of that  
nature if they even have one on your honorable court  
"I Do not feel safe" at this institution" please assist  
me in & with the temporary restraining order & Prelimi-  
nary Injunction and "in & with my being moved-trans-  
ferred to an institution where I'm close to my family  
& where I may be able to Program safely and be free

CRB  
08-3311

Free From harm & Potential threats & Bodily harm"  
 and IF you would issue an order of Protection "special  
 handling" an one of keeping & Forcing this institutions  
 custody staff to refrain from any type manner or form  
 of retaliation "on or against my person" Please, your  
 honor" I "Begging of your honorable court" For this "layman  
 at laws" Prayer for relief - UPON your & OF your court I please  
 mat/Judge T.E. Henderson "I need your immediate help."  
 Mr. Richard W. Weiking SNR clerk of the court I'm begging  
 of you Sir to bring these motions my Prayer for Relief be to  
 the honorable mat/Judge T.E. Henderson as I'm at the  
 1<sup>st</sup> or 2<sup>nd</sup> most Violent Penitentiary in the country state  
 of California, there reputation & propensity for violence -  
 against ethnic Ims & anyone who draws heat, creates unw-  
 anted & undue outside attention from the court or Sacra-  
 ment of those who aren't infected with "this redneck-  
 good off-boy-Green well 2<sup>nd</sup> to only Pleasant Valley,  
 Pelican Bay & Corcoran state prisons & Salinas Valley

Dated 7-29-08  
 Daniel Portillo

Daniel Portugal

Warden T. Felker  
(ET-AL) custody staff

## Points of Authority

- ① Cruz V. Beto 40 S.U.S. 319, 311 led 2d 263, 92 S.C.T. 1079 (1972)
- ② Cooper V. Pate, 378 U.S. 546, 12 led 2d 1030, 84 S.C.T. 1733 (1964)
- ③ Wolff V. McDonnell 418 U.S. 539, 41 led 2d 939, 94 S.C.T. 2963 (1974)
- ④ Hudson V. Palmer 468 U.S. 517, 526-29, 104 S.C.T. 3194, 82 L.Ed. 2d 393 (1984)
- ⑤ Deshanney V. Winnebago County Dept of School Services 489 U.S. 189, 200, 109 S.C.T. 998, 103 L.Ed. 2d 249 (1989)
- ⑥ Youngberg V. Romeo 757 U.S. 307, 315-16-102, S.C.T. 2452, 73 L.ed 2d 28 (1982)
- ⑦ Farmer V. U.S. 511 U.S. at 834, 114 S.C.T. (1970)
- ⑧ Moore V. Malbus, 976 F.2d 268, 271 (5th Cir 1992)
- ⑨ Martinez V. Stanford 323 F.3d 1178, 1183 (9th Cir 2003)
- ⑩ U.S. V. Lopez U.S. Ca 9th No-05 50415
- ⑪ Serrato V. Clark U.S. Ca 9th Cir No 06 15167 May 4 2007)
- ⑫ Re Rosenkrantz (2002) 29 Cal 4th 616, 666-128 Cal Rptr 2nd 1041-1047 at 651
- ⑬ Motley V. Parks 432 F.3d 1072, 1077-78 (9th Cir 2005)

Dated 6-29-08  
Daniel Portugal

②

Danie Portugal  
v.

Warden T. Felker  
(ET-A1) custody staff

- Points & Authority -

- ① Mauney V. Holomen SS S. CT 340 294 U.S. 103
- ② Deluna (2005) 126 Cal app 4th 585, 591, 24 Cal (RPT)
- ③ Mcguillon V. Duncan (9th Cir 2002) 306 F.3d 895, 901-902
- ④ Redd V. McGrath (9th Cir 2003)
- ⑤ Serrato V. Clark U.S. Ca 9th Cir No. 0615167-5-07 Cir 9th
- ⑥ Olsen V. Idaho 363 F.3d 916, 922 9th Cir 04)
- ⑦ Martinez V. Stanford, 323 F.3d 1178, 1183 (9th Cir 03)
- ⑧ Motley V. Parks, 432 F.3d 1072, 1077-78 (9th Cir 05)

dated 6-29-08

Danie Portugal

Daniel Portugal Pro-Per  
V-51068 BY-113  
P.O. BOX 3030 H.O.S.P.  
Susanville, CA 96127

Court Clerk  
Northern Dist CRT HSE  
Northern DIST OF Calif.

V-51068  
Daniel Portugal Pro-Per  
Pro-Per

V.  
T. Felker - warden  
(ET-AA) custody STAFF;

Case No \_\_\_\_\_

Motion Seeking Issuance  
of Temporary Restraining  
order - Against custody STAFF  
From any further Threats again  
me, Harassment of me

I Daniel Portugal - Do Solemnly swear, that this entire entitled document to the best of my ability and knowledge is true and correct - under the Penalty of Perjury and according to the letter of the law and to the color of the law, I am seeking, requesting of your honorable court, the issuance of this motion regarding my present and future safety and on an again this prison's custody staff in an with my Handling, threats of physical harm to my person by custody staff that is & has been involved with my movement & in dealing with me in any manner since my arrival at High Desert state prison. due to my being transferred here from Salinas Valley state prison, due to my being a somewhat successful prison litigator and safety & security issues there, from threats of violence & harm to my person both in writing received by staff and verbally as well being over heard by staff upon my arrival at high desert state prison at receiving, release (R&R) I was verbally threatment, by staff as soon as they saw my legal work do to the nature of my transfer to there institution, as they have display a flagrant attitude towards, against



(S.N.Y.) inmates and they make that quite clear by physical, verbal abuse of towards (us) myself. Shortly after my arrival I wrote a letter to warden T. Felker regarding this matter of my concerns as I've laid bc placed in (TSU) do to my concerns, as I've laid them out in this motion. For your honorable court and for what ever reasons my request's & my letter were denied, I'd clearly laid out all of my concerns of safety to my person my enemy situations which entitle a clear and eminent potential safety, security issue etc. E.T.C. In conclusion I'm requesting of your honorable court, the issuance of this T.R.O. temporary Restraining order against and on this institution-warden-custody staff, my being placed in (AD-SCG) unit, a transfer can be facilitated to a safe institution where I can program free from harm and in a close proximity my family & log's will, would reflect all/names of custody staff involved.

Dated 6-29-08  
 Daniel Portugal

Daniel Portugal  
warden T. Felker  
(ET-AL) w/ today STAFF

- Points & Authority -

① THIS PRISON'S NON COMPLIANCE WITH THE  
DUE PROCESS CLAUSE OF THE FEDERAL CONSTITUTIONS

② (342 F. SUPP 66)

③ (483 F. 2d 1059)

④ ROBERT O Mc DONNELL, ETC - 418 U.S. 539, 41 L. Ed 2d 935, 94  
S.C.T. 2963 NO: 73-679 (1974)

⑤ Garner - SUPRA 529 U.S. 254 AT EXPO FACTO.

⑥ FORMIST - RE ROSENCRANTZ 483 F. 2d 1059

⑦ INCLUDED IN ABOVE CITE IS CHARLES WOLFF JR. ETC - ET AL  
PETITIONER(S) THESE ABOVE & ENTITLED POINTS & AUTHORITY  
ARE TO INCLUDE & BEING REQUESTED OF & BY WAY OF YOUR  
HONORABLE COURT ISSUING AN ADDITIONAL ORDER, THAT NO  
REPRISALS BE TAKEN AGAINST, OR SHALL ANY BE ADMINISTERED  
TO - ON OR IN ANY FASHION AGAINST THIS PLAINTIFF, IN THIS  
ENTITLED ACTION IN ITS ENTIRETY WHICH IS I/M DANIEL  
PORTUGAL - V- S1068, & (ET-AL) I/M'S AS IS THE PLAINTIFF IN  
THIS INSTANT ACTION, AND ONGOING PENDING LITIGATION -  
PURSUANT TO THIS UNCONSTITUTIONAL ACTION OF & BY DEPT  
CORREC, & REHAB VIOLATING HIS DUE PROCESS RIGHTS  
TO UNIMPEDED ACCESS TO THE COURTS SUBJECTING THIS  
PLAINTIFF I/M D. PORTUGAL - TO CRUEL & UNUSUAL PUNISHMENT  
THE RIGHT TO BRING A GRIEVANCE, OR ACTION TO &  
THROUGH THE ADMINISTRATIVE PROCESS TO THE COURTS





Daniel Portugal  
 V-51068 B-4113  
 P.O. BOX 3030  
 Susanville, Calif 96127

Pro-Per  
 H.O.S.P.

Court Clerk  
 Northern DIST. CRT. HSE.  
 Northern DIST OF CALIF.

Daniel Portugal

V

T. Felker - warden, (ET-AL) custody staff

Motion / letter for  
 seeking Prayer of  
 Relief of Your Honorable  
 Court.

Court clerk - Richard W. Weiking;

Dear: Judge Nathan E. Henderson

I am writing this motion regarding on  
 Safety security and concern against this prison  
 High Desert, appellant Daniel Portugal # V-51068  
 I would like to request to be transfer from this  
 institution due to this matter's.

Prospective relief / preliminary injunctions  
 appellant has a history of filed many complaint against CDC  
 due to my lawsuit civil rights Act, 42 U.S.C. § 1983.  
 Salinas Valley transfer me to this institution, the  
 circumstances is the I have safety security, concern  
 issues. appellant send a letter to the warden T. Felker  
 regarding this matter but for whatever reason my  
 request was denial to be place on ASU. due to my  
 concerned safety and enemies security issues, etc. threats  
 verbal harassment physical harm many times.

①

legal analysis and conclusions, prison official must  
 provide humane conditions of confinement, must take 37 F. Supp.  
 2d 927 reasonable measures to guarantee the safety of the  
 inmate "see Hudson v. Palmer, 468 U.S. 517, 526-27 104 S.Ct.  
 3194, 82 1 Ed. 2d 393 (1984) see Deshaney v. Winnebago  
 County Dept of Social Services, 489 U.S. 189, 200 S.Ct. 998, 103  
 L.3d 2d 249 (1989) it is "cruel and unusual punishment to hold  
 convicted criminals in unsafe conditions" Youngberg v. Romeo

457 U.S. 307-315-16,102 S.Ct. 2452,73 L.Ed.2d 28 (1982) prison official have a duty.... to protect prisoners from violence at the hands of other prisoners. "Gratuitously allow[ing] the beating of one prisoner by another serves no 'legitimate penological objective' the objective component of a failure to provide reasonable protection from harm claim is 'Incarceration under conditions posing a substantial risk of serious harm.'" Farmer, 511 U.S. at 834, 114 S.Ct. 1970. The Fifth Circuit has affirmed that(s) one condition of confinement may establish an Eighth amendment violation "in combination when each would not do so alone, but produces the only when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need." Moore v. Mabius 976 F.2d 268, 271 (5th Cir. 1992). "A" remedy for unsafe conditions needs not await a tragic event" Helling v. McKinney, 509 U.S. 25, 33-34 S.Ct. 2475, 125 L.Ed.2d 22 (1993) Inmate must be protected against present future dangers. Horton v. Lockren 70 F.3d 397-40 (5th Cir. 1995) (citing Helling v. McKinney, 509 U.S. 25 113 S.Ct. 2475, 125 L.Ed.2d 22 (1993) prison authorities must protect not only against current threats but also guard against "sufficiently imminent dangers that are likely to cause harm in the 'next week or month or year.'" Horton v. Lockren 70 F.3d 397-401 (5th Cir. 1995) quoting Helling v. McKinney, 509 U.S. at 32-33 113 S.Ct. 2475) The subjective component of a failure to provide reasonable protection from harm claims is "deliberate indifference".

which is "more than mere negligence" in failing to prevent harm and acts or omissions for the very purpose of causing harm or with knowledge that harm will result thus it is the equivalent of acting recklessly" Farmer 511 U.S. at 835 114 S.Ct. 1970 the obviousness of the risk from facts known to the appellant is circumstantial, but rebuttable, proof that defendant inferred the risk id at 840 114 S.Ct. 1970; Bradley v. Puckett 157 F.3d 1022, 1025 (5<sup>th</sup> Cir. 1998) In Albert, the district court concluded that "inmate beating and attacks are prevalent" Albert 790 F.2d at 1224 (quoting Albert v. Heard, 600 F.Supp. 443 457 S.D. Tex. 1983) The Fifth circuit held that it "determine whether an Eighth amendment violation as well according to chapter 3 section 3.3, a transfer may violate some other constitution protection for example, a transfer might subject a prisoner to cruel and unusual punishment if the prison would be placed with known enemies or others who would cause serious harm. Prisoner are often very concerned about where they serve their time, especially if they hope to receive visits from family and friends" Family ties, prison placement are specifically discussed in § 3.4 or they wish to be in a particular program or housing arrangement that is available only at certain prisons. once a person is validly convicted, the requirement of due process under the Fourteenth amendment of the U.S. constitution, see Farmer v. Brennan 1994) 511 U.S. 825 (114 S.Ct. 1970;

128 L.Ed 811) Prison officials have duty to protect prisoners from violence at the hands of other prisoners; a constitutional violation occurs when the danger of harm is "sufficiently serious" and the prison official acts with "deliberate indifference" to inmate health or safety). See also § 2.24 concerning reasonable safety concerns and chapter 7 concerning housing needs related to medical care. as for the record as well I been on High Desert Prison for more 3 1/2 and still this institution has not allowed me to receive my personal property especially when all my property arrive with me on R&R, still have not receive any Fish kit Hygiene, laundry schedule all I have is on pair of socks, boxers and shirt I ask many times to Yo, Sgt's regarding some clothing or my legal property, and personal property as well but I try to resolve this issue on informal level due to the circumstance appellant has not receive any reply regarding this matter.

⑤ this actions are "cruel and unusual conditions to live. appellant would like to request for protection to him and cellmate for this institution not to make or a false 1030 report against appellant cellmate for weapons or drugs, assault on staff. The due process clause protects a state prisoner's right under First amendment, 14, 8 amendment against "cruel and unusual punishment

Dated 6-29-08

Danilo Portillo  
Appellant/Debit



[illegible]

STATE PRISON

U.S. District Court  
Courtroom 12, Floor 19  
450 Golden Gate Avenue  
San Francisco, Ca 94102

**"LET US DARE TO  
THINK, SPEAK AND  
JOHN ADAMS, 1765  
powerofthe5th.com**



-Legal Mail-  
Per CCR 15 Art 4 3142 c,2

ok provided  
JUL 16 2008  
db